

BERNARD S. MOORE, OSB #843051
Moore@fdfirm.com
FROHNMAYER, DEATHERAGE, JAMIESON,
MOORE, ARMOSINO, MCGOVERN, P.C.
Larson Creek Professional Center
2592 East Barnett Road
Medford, OR 97504
Telephone: (541) 779-2333
Facsimile: (541) 779-6379
Of Attorneys for Defendants

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

CALVIN KINNEY; SUSAN KINNEY,

Civil No. 1:20-cv-2068

Plaintiffs,

v.

DAVID GRABER; LYNN GRABER; and
LARRY GRABER,

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. 1332, 1441 and
1446

Josephine County Circuit Court Case
No. 20CV38013

TO THE CLERK OF COURT:

PLEASE TAKE NOTICE that Defendants hereby remove the above-captioned case, currently pending in the Circuit Court of Oregon for the County of Josephine, to the United States District Court for the District of Oregon. Removal is based on 28 U.S.C. § 1332 (diversity jurisdiction) and is authorized by 28 U.S.C. §§ 1441 and 1446.

Page 1 - **NOTICE OF REMOVAL**

**FROHNMAYER, DEATHERAGE, JAMIESON,
MOORE, ARMOSINO & MCGOVERN, P.C.**
2592 EAST BARNETT ROAD
MEDFORD, OR 97504
FAX (541) 779-6379
TELEPHONE (541) 779-2333

Removal is Timely.

1. On October 27, 2020, plaintiffs filed an action in Josephine County Circuit Court captioned:
Calvin Kinney, Susan Kinney v. David Graber, Lynn Graber, Larry Graber Case No. 20CV38013. Exhibit 1 is a true copy of the complaint served on defendants. No other pleadings were filed in the state court action.
2. This Notice of Removal is timely filed under 28 U.S.C.1446(b), which provides that a notice of removal must be filed with 30 days after a defendant receives, through service or otherwise the initial pleading. As indicated in the declaration of Ashley Davenport (Exhibit 2) defendants David Graber and Lynn Graber were served on November 3rd, 2020. Larry Graber has yet to be served.

Diversity Jurisdiction Exists.

3. Plaintiffs are residents of Oregon. (Exhibit 1)
4. Defendants are residents of Indiana. (Exhibit 2)
5. The amount in controversy exceeds \$75,000. (Exhibit 1 paragraphs 3-9 & 17)
6. This Court possesses original jurisdiction over this action under 28 U.S.C 1332.

///

///

///

///

///

///

///

Intradistrict Assignment.

Removal is proper to the Medford Division of the District of Oregon because the claim arose in Josephine County and Plaintiffs' claim is situated in Josephine County. LR 3-2(a)(4). *See* Exhibit 1 paragraph 1.

DATED this 30th day of November, 2020

/s/ *Bernard S. Moore*

Bernard S. Moore, OSB #843051
Of Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that I served the foregoing **NOTICE OF REMOVAL** upon:

Ms. Rebecca Wilson, OSB #181650

SORENSEN, RANSOM, FERGUSON & CLYDE

133 NW D Street

Grants Pass, OR 97526

Fax: (541) 474-4495

Email: rwilson@roguevalleylaw.com

Of Attorneys for Plaintiffs

- by automatic electronic transmission via the Court's Case Management and Electronic Case Filing practice.
- by mailing to said attorney a copy thereof, certified by me as such, contained in a sealed envelope, with postage paid, addressed to said attorney at said attorney's last known address and deposited in the post office at Medford, Oregon, on the date set forth below.
- by personally handing said attorney a copy thereof, certified by me as such, on the date set forth below.
- by faxing to said attorney a copy thereof, certified by me as such, during normal office hours, addressed to said attorney at said attorney's last known facsimile number as indicated above. Proof of such transmission is attached hereto.

DATED this 30th day of November, 2020

/s/ Bernard S. Moore

Bernard S. Moore, OSB# 843051

Of Attorneys for Defendants

TRIAL ATTORNEY

**FROHNMAYER, DEATHERAGE, JAMIESON,
MOORE, ARMOSINO & McGOVERN, P.C.**
2592 EAST BARNETT ROAD
MEDFORD, OR 97504
FAX (541) 779-6379
TELEPHONE (541) 779-2333